



MAINE REVENUE SERVICES SALES/EXCISE TAX DIVISION INSTRUCTIONAL BULLETIN NO. 14

SEED, FEED, FERTILIZER AND OTHER ITEMS USED IN AGRICULTURAL AND AQUACULTURAL PRODUCTION

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

Sales of seed, feed, fertilizer, hormones, pesticides, insecticides, fungicides, antibiotics, weed killers, defoliants, litter and medicines used in agricultural and aquacultural production, and fuel used in burning blueberry fields, are exempt from sales or use tax.

"Agricultural production" includes:

- i. the raising of crops for human or animal consumption and the production of seed to be used primarily to raise crops for human or animal consumption, such as growing fruits, vegetables and grains;
- ii. the keeping and raising of animals which are producers of food or will become food products themselves such as cows, pigs, chickens, bees and goats;
- iii. the keeping and raising of animals which are producers of other products such as sheep and llamas for their wool, domestic deer for their antler velvet; and
- iv. the keeping and raising of equines (horses);
- v. the growing of trees on land used primarily for growth of trees to be harvested such as land that qualifies for taxation under the Maine Tree Growth Tax Law.

Although this exemption applies to noncommercial as well as commercial activities, it does not apply to the following types of businesses or activities as they are not deemed to be agricultural production:

circuses	carnivals
riding clubs	race tracks
aquariums	golf courses
utilities	landscapers
raising of pets	woods operations (other than those activities which qualify under " v." above)

1. SEED USED IN AGRICULTURAL PRODUCTION.

Sales of seed used in agricultural production are exempt. "Seed" includes tubers, bulbs and corms used as seeds. The exemption includes all seed sold for producing plants that ultimately and primarily produce a product for human or animal consumption.

The Law does **not** exempt from tax the sale of flower seeds, lawn seed, or shrubs, trees, seedlings, and plants of any kind except when sold for resale as tangible personal property.

2. FEED USED IN AGRICULTURAL AND AQUACULTURAL PRODUCTION.

Sales of feed used in agricultural and aquacultural production, including feed for lobsters in tidal circulating lobster pounds and horse feed, are exempt. This exemption does not include sales of water or sales of pet foods.

3. FERTILIZER USED IN AGRICULTURAL PRODUCTION.

Sales of commonly recognized agricultural fertilizers, including ground limestone and hydrated lime, are generally considered to be used in agricultural production. Sales of fertilizer to a person who is clearly not engaged in agricultural production, as mentioned at the beginning of this bulletin, are taxable.

Sales of fertilizers not suitable for agricultural use, such as lawn fertilizers and plant food for potted plants, are subject to tax.

4. HORMONES.

Sales of hormone preparations for use in agricultural production (as in poultry, apple and cattle and horse production) are exempt.

5. PESTICIDES.

Sales of poisons intended for the destruction of rodents and other animals that are damaging to agricultural production, such as rat poisons and woodchuck bombs, are exempt, but repellents of any kind are not exempt.

6. INSECTICIDES.

Sales of preparations intended for the destruction of insects harmful to agricultural production are not taxable. The exemption does not apply, however, to products intended for household use, such as mothballs, ant traps, and insecticides in aerosol containers, or to preparations intended for personal use such as insect repellents.

7. FUNGICIDES, WEED KILLERS AND DEFOLIANTS.

All sales of fungicides, weed killers and defoliants used in agricultural production are exempt.

8. LITTER.

All sales of litter for use in agricultural production are exempt. "Litter" includes wood shavings and hay.

9. ANTIBIOTICS AND MEDICINES.

Sales of medicines used for the treatment of animals, fish and shellfish in the course of agricultural and aquacultural production, including antibiotics used for the treatment of lobsters kept in tidal circulating lobster pounds, are exempt.

10. SALES OF ANIMALS

The retail sale of all animals, except those that are being raised as food products or for food production, are taxable transactions. The sale of any animal by a person not engaged in making retail sales is considered a casual sale which is not subject to tax. Some examples of taxable transactions are:

- i. Sales by pet stores;
- ii. Sales by animal breeders such as dogs, cats and horses;
- iii. Sales of horses at claiming races

11. FISH AND SHELLFISH.

Sales of fish and shellfish for human consumption, sales of bait to commercial fishermen and sales of fish for use in aquacultural production are exempt.

Sales of fish as pets or for exhibit and sales of bait used in sport fishing are taxable.

12. FUEL FOR BURNING BLUEBERRY LANDS.

Sales of all fuels used in burning blueberry lands are exempt. In order to document the exempt sale, the retailer should obtain a signed statement from the purchaser describing its business activity and the fact that the fuel being purchased is to be used in burning blueberry fields.

13. EXCEPTIONS

As previously mentioned, sales of the items addressed in this bulletin, when sold to persons who are not engaged in agricultural production, are taxable. However, there may be instances where such a person may in fact use the item in agricultural production, i.e. feed for breeding horses. If the purchaser makes such a claim, the retailer must obtain a statement from the purchaser attesting to the fact that the item will be used in agricultural production.

14. ADDITIONAL INFORMATION.

The above outlines some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all-inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question, and should be directed to the:

**Maine Revenue Services
Sales/Excise Tax Section
P. O. Box 1065
Augusta, Maine 04333-1065
TEL: (207) 287-2336
TTY: (207) 287-4477**

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36 1760. Exemptions

No tax on sales, storage or use shall be collected upon or in connection with:

7. Products used in agricultural and aquacultural production, and bait. Sales of seed, feed, hormones, fertilizer, pesticides, insecticides, fungicides, antibiotics, weed killers, defoliants, litter and medicines used in agricultural and aquacultural production and sales of bait to commercial fishermen. Agricultural production includes the raising and keeping of equines.

9-A. Fuels for burning blueberry lands. Sales of all fuels used in burning blueberry fields.

Relevant Rules: None